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THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

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PARDON GUIDELINES

Issued by Governor William F. Weld

February, 1992

To the Advisory Board of Pardons and Other Interested Parties:

The Governor views the granting of a pardon as an extraordinary remedy, which has the effect of treating the petitioner as if the offense had never been committed. The grant of a pardon is mainly intended to remove the barriers that are sometimes associated with a criminal record, thereby facilitating the reintegration of the petitioner into his or her community.

Meeting the requirements of these guidelines, however, is merely a threshold inquiry for consideration for pardon relief. The final determination of whether a pardon will be granted lies with the Governor after a thorough review of the merits of the petition and the recommendations of the Advisory Board of Pardons (hereinafter "the Advisory Board"). In granting pardon relief the Governor will not question the propriety of a court proceeding or disposition.

In order to provide guidance to the Advisory Board in reviewing pardon petitions and in making its recommendations to the Governor, the Governor has established the following uniform policy:

1. The Governor will give serious consideration to pardon requests where:
 - a. Petitioner has been neither convicted nor confined under sentence during the past twelve years, in the case of felonies, or seven years, in the case of misdemeanors; and

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- b. Petitioner has demonstrated good citizenship during such periods, which shall mean both specific achievements and incident-free behavior. (Dispositions which are not exculpatory, such as continuances without a finding, filings, or no-contest pleas, may not be considered incident-free behavior.) Periods of successful parole and probation will be included as part of the good citizenship period, but the parole and probation term must be completed prior to the filing of a pardon petition.

2. The Governor will give particular consideration to petitioners who meet the terms set forth in section one and who have a verified, compelling and specific need for a pardon, such as the removal of a criminal record, which may prevent him or her from obtaining a particular license or employment. The petitioner has the obligation, however, to provide written verification of his/her specific compelling need. This may be a letter of verification or rejection from an employer and/or licensing authority, which indicates that he or she will not be hired and/or licensed unless a pardon has been granted. The need for a pardon will generally not be found to be compelling where other provisions of the law furnish appropriate relief for the petitioner.

3. A petitioner, when seeking a pardon in order to obtain a firearm permit as a condition of employment, must furnish adequate proof of the need for such a permit as a condition of employment. In addition, the petitioner must provide a letter from the appropriate Chief of Police verifying that he or she would approve a firearm permit upon the granting of a pardon, which does not restrict the pardoned individual from carrying, transporting, possessing, and/or receiving firearms.

4. As a general policy the Governor will seldom, if ever, grant pardon relief for the purpose of obtaining a firearm permit to petitioners who evidence a history of emotional or mental health problems or who have been convicted of a felony crime which involved any of the following:

- a. the use of a firearm;
- b. violence for which a sentence of incarceration was imposed;
- c. the distribution of controlled substances for profit;
- d. a serious breach of the public trust; or
- e. organized crime or a large scale criminal conspiracy.

As part of that policy, the Governor will specifically restrict any such pardon so as to prevent the pardoned individual

from carrying, transporting, possessing, and/or receiving firearms. A pardoned individual may later petition the Governor to remove the restriction from the pardon if a change in the individual's circumstances has occurred which satisfies the guidelines. Such a petition may not be submitted earlier than one year from the grant of the pardon unless the petitioner demonstrates a material and compelling change in circumstances.

For purposes of these guidelines, the definition of firearm shall be the same definition found in G.L. Chapter 140, Section 121.

5. The Governor will consider petitions for pardon relief which meet these guidelines and have been recommended by the Advisory Board. When the Governor disagrees with the recommendation of the Advisory Board to grant a pardon, the Governor will set forth, where appropriate, those actions that the petitioners should take to maximize the potential for favorable consideration in the future.

Whenever the Advisory Board recommends that the Governor deny a pardon request and the Governor does not disapprove, or does not take other action with respect to that adverse recommendation, within 90 days after the date of its submission to the Governor, it shall be presumed that the Governor concurs in that adverse recommendation. The Advisory Board shall so advise the petitioner and close the case.

Where the Governor approves a petition for pardon, all officers having possession and control of any records relating to the offenses for which the person received the pardon shall seal all such records in accordance with G.L. Chapter 127, Section 152.

6. The report and recommendations of the Advisory Board to the Governor should include the following:

- a. A duplicate of the registration with the Secretary of State filed by counsel or other representative pursuant to G.L. Chapter 127, Section 167; and
- b. Communication from at least three persons, other than the petitioner or a member of the petitioner's family, verifying the period of good citizenship, and, where applicable, verification from at least one other source of the compelling and specific need for a pardon; and
- c. A description of the circumstances of each offense and conviction for which a pardon is sought; and
- d. The names of the panel members or hearing officer who conducted the pardon hearing; and
- e. Copies of any dissenting opinions filed in



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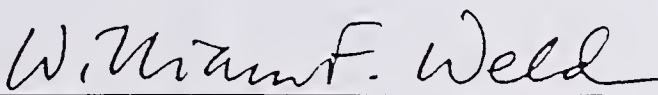
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opposition to pardon relief by members of the panel; and

- f. The names and addresses of those persons who have advanced an interest either in favor of or in opposition to pardon relief, along with the substance of their testimonies or statements; and
- g. A statement explaining why pardon relief is being recommended, and where it is not, a description of those actions the petitioner should accomplish in order to maximize the potential for favorable consideration in the future; and
- h. A statement that the Advisory Board or its staff has informed the petitioner, and he or she understands that federal and state laws prohibit persons convicted of a felony or drug offense from obtaining a firearm permit where the Governor's pardon restricts the individual from carrying, transporting, possessing and/or receiving firearms; and
- i. A statement from the Advisory Board that the petitioner has not been convicted of any crime since the latest conviction from which the pardon is sought.

7. The Governor may, at any time before making a final determination, return a petition to the Advisory Board for further action or to request further information or both.

8. The guidelines contained herein are advisory only. They create no enforceable rights in the petitioner, nor do they restrict the power granted to the Governor pursuant to Article 73 of the Amendments to the Constitution of the Commonwealth. The Governor expressly reserves the right to waive any of the above non-statutory provisions in any case deemed worthy of special consideration due to extraordinary circumstances.



William F. Weld
Governor

